IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 28007 of 2007

DATED: 28.12.2007

Between:
Mulamandala Guruvulu and ors petitioners

And

The Election Officer cum Sub Divisional Cooperative Officer,
A.P. Cooperative Societies,
Bobbili Fishermen Industrial Coop Society
Medara Street, Bobbili and ors Respondents

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 28007 of 2007

Oral order:

The present writ petition is filed questioning the action of respondents in not admitting the petitioners as members of the second respondent society, as illegal and arbitrary.

The petitioners claim that they belong to Besta and Neyyala communities and residents of territorial jurisdiction of second respondent society and submitted applications to the President of the second respondent society on 24.8.2007 to admit them into the society. While so, the 4th respondent issued proceedings dated 30.11.2007 appointing the Election Officer to conduct elections on 29.12.2007 and the second respondent society published voters list on 11.12.2007, wherein the names of the petitioners are not figuring. Hence, the present writ petition questioning the action of the respondents in not admitting the petitioners as members of the second respondent society.

Heard the learned counsel for the petitioner and the learned Government Pleader for Co-operation.

The petitioners claim that they are eligible to become members of the second respondent society and without considering their claim, the respondents are proceeding to conduct elections to second respondent society on 29.12.2007 and contend that if the respondents

were allowed to conduct elections the petitioners would be put to irreparable loss.

The eligibility or otherwise of the petitioners to become members of the society respondent society is purely a question of fact. Such disputed question of fact, the law is well settled, cannot be gone into by this Court in a writ petition under Article 226 of the Constitution of India.

Having regard to the provisions of Section 61(3) of the A.P. Co-operative Societies Act, 1964, which states that every dispute relating to, or in connection with any election to a committee of a society shall be referred for decision to the Tribunal having jurisdiction over the place where the main office of the society is situated, whose decision shall be final, I am of the considered opinion that the said question cannot be gone into by this Court in this writ petition, and the remedy of the petitioner, is to approach the Tribunal.

In fact this Court in **M. Ramachandra Reddy and Others v. Government of A.P.**[1] considered similar question as is involved in this writ petition, and held that even if it was assumed that there were certain irregularities in enrolment of the members of the society and preparation of the voters list, as held by the apex Court in **Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha v. State of Maharashtra**[2], the same can at the most be a valid ground to raise an election dispute after the declaration of the result, and that sub-sections (3) and (4) of Section 61 of the Act in clear terms provide that any dispute relating to any election to a committee of a society shall be referred to the Tribunal only after the date of declaration of the result of such election.

For the foregoing reasons, I find no merit in the writ petition, and the same is accordingly dismissed. However, the petitioners are at

liberty to approach the Co-operative Tribunal under Sections 61(3) and (4) of the A.P. Co-operative Societies Act, after conduct of the elections and raise election dispute. No costs.

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N.V. RAMANA, J.

Dated: 28th December, 2007.

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[1] 2006 (2) ALD 296

[2] (2001) 8 SCC 509